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ipid

Department:
Independent Police Investigative Directorate
REPUBLIC OF SOUTH AFRICA

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MEMORANDUM

TO : MR KI KGAMANYANE
ACTING-EXECUTIVE DIRECTOR

FROM : MR AMAR MAHARAJ
ETHICS MANAGER

DATE : 29 JANUARY 2016

SUBJECT : CONFIDENTIAL: UNPROFESSIONAL CONDUCT BY [REDACTED]
[REDACTED]

1. PURPOSE:

To inform the Acting-Executive Director of unprofessional, irregular and unlawful conduct by [REDACTED] which compromises the integrity of the IPID Ethics Office and results in a lack of trust by staff and stakeholders.

2. ANNEXURES

- 2.1 (A) Email from [REDACTED]
- 2.2 (B) List of files as per Protected Disclosure made by [REDACTED] include case summaries.
- 2.3 (C) Email to [REDACTED] 02/03/2015 with summaries of cases and current status as verified by IPID internally.

3. BACKGROUND/DISCUSSION:

As the former Ethics and Risk Manager, and now Ethics Manager I have witnessed a number of instances of unprofessional and irregular, and unlawful conduct by the [REDACTED] that has left me flabbergasted. The conduct and resolve of the [REDACTED] should be impeccable and

above reproach. However, as per the following examples I will illustrate conduct that is not consistent with the IPID Values of, Mutual Respect and Trust, Integrity and Honesty, Transparency and Openness, Equity and Fairness, and Commitment and Accountability.

3.1 Report to Ethics Office by [REDACTED] Adjustment Claims.

Following a telephonic complaint, on 26 January 2016 a report was made to my office by an IPID security service provider, [REDACTED], who sent to me a series of emails regarding adjustment claims submitted to the IPID since 2014. As per the last email received by [REDACTED] a document was enclosed wherein an agreement was reached between the IPID and [REDACTED] signed by [REDACTED] from the Limpopo Office. In terms of the agreement, dated 17 July 2015, the IPID has to pay [REDACTED] the sum of [REDACTED]

As per the complaint from [REDACTED] payment has yet not been made by the IPID.

On the day of the receipt of the report, I discussed the matter with the [REDACTED], whose response was the following. "Why did they contact you"? "How did they get your number"? and "How is the complaint an Ethics Matter"?

I explained to [REDACTED] that my telephonic details are widely available to staff for reporting, and also explained that the matter is an ethics matter because it shows internal conduct inconsistent with the Values of the department. I further explained that the Values of Trust, Integrity, Transparency and Fairness and Commitment all apply in this instance.

Once I had received a copy of the agreement between [REDACTED] and the IPID, I proceeded to leave my Office to engage with [REDACTED] on the matter, in order to respond to [REDACTED]

Upon discovering that I was going to discuss the matter with [REDACTED] [REDACTED] had instructed me not to meet with [REDACTED]. As a result the matter, similar to others, is held in indefinite abeyance and I am unable to respond to the complainant.

The above example serves to illustrate the unprofessional conduct of the [REDACTED] whose managerial style, is to do as little work as possible, make things go away, and not deal professionally with matters relating to governance. [REDACTED] conduct serves to create an unprofessional work environment that is inconsistent with the Values of the IPID.

3.2 Whistle-Blower [REDACTED] (2014). Matter suppressed.

[REDACTED] in September 2014, contacted the Ethics and Risk Management Office to make a report of approximately 100 cases 'unattended to' or 'completed' and not worked on since February 2014 at the Mpumalanga Provincial Office. The person responsible for this state of affairs is [REDACTED] who was then [REDACTED]. I requested that [REDACTED] provide my office with a list of the cases in question. On 29 September 2014, I was furnished with a list of 58 cases via email.

I conducted a preliminary assessment of the cases and compiled a report with details and summaries of each case. I noted that the cases related to, amongst others, Assault, Torture and Murder. A number of the cases had been 'completed' for statistical purposes without proper investigation.

Further to my preliminary assessment, I formally wrote to [REDACTED] and accepted his report as a protected disclosure. I advised him that in terms of section 3 of the Protected Disclosures Act, he will not be subjected to any occupational detriment in relation to the work environment which includes, being subject to any disciplinary action, being dismissed, suspended, demoted, harassed or intimidated.

In my report to the [REDACTED] I held the view that IPID official/officials 'are failing to comply with their legal obligations and that a miscarriage of justice has occurred. I recommended a full investigation into the matter.

Upon the appointment of the new [REDACTED] I reported the matter fully to her and much to my surprise she immediately took a view that it was a Labour Relations matter despite my office accepting [REDACTED] report in terms of the Protected Disclosures Act.

Further complaints were received from [REDACTED] regarding a hostile work environment, warnings and intimidation by [REDACTED], who is the [REDACTED] at the Mpumalanga provincial office. It became apparent to me that [REDACTED] work environment had become intolerable.

It is a fact that the [REDACTED] took a position to disregard the matter of [REDACTED] who has been formally accepted as a whistle-blower, and has tacitly allowed him

to be subjected to occupational detriment which is prohibited in terms of the Protected Disclosure's Act.

As a result of inaction by the [REDACTED] and suppression of the matter, [REDACTED] become further emboldened and perceives himself as being untouchable and unaccountable. [REDACTED] occupational detriment has continued unabated and he has since been demoted and received numerous warning from [REDACTED]

It is important to note that this matter was not reported to the Compliance, Ethics and Risk Committee since November 2014 as the Committee had failed to meet. This failure has proven to be a major breach of internal controls and proper governance process for which someone needs to be held accountable for.

3.3 Irregular request by [REDACTED] delete Emerging Risks from Quarterly Report in early 2015.

A few months into the appointment into the post of [REDACTED] and during the period when I was still Ethics and Risk Manager, I received an extraordinary request which I had experienced for the first time in my career. I was asked to delete 'Emerging Risks' from my report.

I had noted the following emerging risks in my quarterly report:

Emerging Risks identified by the Risk Manager.

Risk	Level of Risk
1. Cases may be 'completed' without proper investigation within 90 days in order to achieve performance/statistical targets.	HIGH
2. Internal control systems and processes at provincial level may not be in place to record and track 'completed' cases.	HIGH
3. Dockets may not be quality assessed before being submitted to the DPP resulting in a decision not to prosecute. The case may then be closed.	HIGH
4. DPP queries may not be attended to and cases may be left unattended and eventually closed.	HIGH
5. Investigators may lack confidence, experience and training or may not be competent to give testimony in court.	HIGH
6. Murder, rape and torture cases may be held back because they take too long to investigate.	HIGH
7. Brought forward registers may not be in place.	HIGH
8. Delegations of authority and workflow processes at Provincial level	HIGH

	may not be reviewed resulting in inefficiencies and or conflict.	
9.	Cases which have been 'completed' over the last two years for performance/statistical objectives and currently unattended, may not be investigated further or may be closed.	HIGH
10.	Cases may be closed as unsubstantiated in order to achieve performance targets.	HIGH
11.	Cases closed as unsubstantiated during the 2013-2014, and 2014-2015 financial years may not have been audited by Internal Audit.	HIGH
12.	Investigators may not be trained effectively to perform their functions resulting in poor statement taking, weak reports, including poor grammar, and weak investigations.	HIGH
13.	Post mortem results may not be collected resulting in undue delays in finalising investigations.	HIGH
14.	Stakeholder management strategies and processes may not be effective resulting in abnormal delays at the DPP and weak compliance from SAPS in terms of disciplinary matters.	HIGH

The [REDACTED] was insistent that I delete the above Risks. Her reasons were that, "Our job is to support Managers and not give them work to do". This was as a result of a meeting held with [REDACTED] who complained to her about the Emerging Risks I had highlighted and who told her that, "...he did the same thing before he was suspended".

Upon receiving the instruction to delete the Emerging Risks, I was outraged and penned a letter to her to note my objection. However, I decided against handing over the letter as the internal atmosphere was becoming too hostile and [REDACTED] decided to take fully responsibility for the deletion of the emerging risks from the report. It was apparent that [REDACTED] and [REDACTED] and others, were acting in common purpose. At the same time I believe it was their decision to suppress the [REDACTED] matter.

I discussed this matter with my work colleagues at Audit and Governance, who were also astounded at the instruction to delete the Emerging Risks from my report. I also believe that the Compliance, Ethics and Risk Committee meeting was deliberately not held to avoid the Emerging Risks and other matters being placed on the table.

3.4 Unprofessional and Stressful Work Environment

It is my assessment that the conduct of the [REDACTED] has created an internal environment that is unprofessional and is rapidly eroding and headed towards major interpersonal conflict.

The actions and conduct of the [REDACTED] has placed her on constant edge and this is evident in her relationship with me and more so after the appointment of the new [REDACTED]

██████████, who has been scathing in his remarks about the performance of the Governance Unit and the lack of holding the Compliance, Ethics and Risk Committee Meetings for 14 months. Further, the ██████████ is always anxious as to whether I may make disclosures to the ██████████ and or correct her at a meeting.

It is not my intention to cause conflict, but as Ethics Manager at the IPID I need to show resolve and deal with issues with conviction. It is precisely this conviction that has enabled a strong bond of trust to be established between the IPID staff and myself. I would be failing in my duties and responsibilities if I did not report the matter to you and avoid a complete breakdown in the work relationship.

4 RECOMMENDATIONS:

3.1 I recommend that the a full enquiry be held in to the ██████████ matter and advise on the following:

- a) The matter not be handled by ██████████
- b) All the cases reported by ██████████ to be thoroughly investigated and where cases have been completed or closed without proper investigation, charges are to be laid against individuals for defeating the ends of justice.
- c) ██████████ Labour Relations file to be examined by an independent official and his demotions and warnings to be reversed.

4.2 A formal enquiry into the role and conduct of the ██████████

██████████, including:

- a) Her position on and regarding failing in her duties and responsibilities towards addressing the ██████████ matter.
- b) Her decision not to deal fully with the matter of whistle-blower ██████████ and by omission causing him to endure occupational detriment and an intolerable work environment.
- c) Her loyalty and obligation to individuals which have resulted in her compromising her independence and thwarting the proper role and functioning of the Corporate Governance Unit and Ethics Office in particular.
- d) Her fitness as ██████████ which requires strong leadership, independence, commitment and compliance with the laws of the country, and advancing and promoting the Values of the IPID.

Yours Sincerely,

MR AMAR MAHARAJ

ETHICS MANAGER

DATE: 29 JANUARY 2016